

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE - SW/S Merritt Blvd.,
1100' NW of Trappe Road * DEPUTY ZONING COMMISSIONER
(1501-1575 Merritt Boulevard)
12th Election District * OF BALTIMORE COUNTY
7th Councilmanic District * Case No. 95-421-SPHA
Merritt Boulevard Property Partnership
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Variance for that property known as 1501-1575 Merritt Boulevard, also known as the Danville Square Shopping Center, located in the vicinity of Gray Manor in Dundalk. The Petitions were filed by the owners of the property, the Merritt Boulevard Property Partnership, by Donald H. Ready, Partner, through their attorney, Robert W. Cannon, Esquire. The Petitioners request a special hearing to approve the use of the premises at 1559 Merritt Boulevard, consisting of 20,078 sq.ft., for a pet shop with no outside facilities for pets, as being permitted under the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 421.2 thereof. In the alternative, the Petitioner seeks approval of the use of the subject property for a Petstuff/Petsmart store, the principal use of which is the sale of food and supplies for pets, and that the sale of pets is an accessory use which occupies less than 5% of the premises. In addition to the special hearing request, the Petitioners seek relief from Section 421.2 to permit a pet shop use within 130 feet of a residential zone in lieu of the required 200 feet. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Donald H. Ready, one of

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Date 7/10/95
By [Signature]

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the owners of the property, James Kline, Professional Engineer, Jerry Gordon, District Manager for Petstuff/Petsmart, and Robert W. Cannon, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property is the site of the Danville Square Shopping Center located on Merritt Boulevard in Dundalk. The shopping center consists of approximately 73,206 sq.ft. of retail space, and includes a restaurant, bank and associated parking. The Petitioners recently completed renovations to the shopping center and are desirous of leasing approximately 20,078 sq.ft. to Petstuff/Petsmart, a retail store which caters to the needs of pets and their owners by supplying food and accessories for pets. In addition to pet supplies, a small portion of the business includes the sale of pets to the general public. Inasmuch as the shopping center is located 130 feet from a residential zone, the requested variance is necessary in order to proceed as proposed. Testimony revealed, however, that this residential property is being used for public utilities and electrical transmission lines and that the nearest residence is actually 250 feet away.

In the opinion of this Deputy Zoning Commissioner, the use proposed at this location meets the spirit and intent of the zoning regulations, specifically, the requirements of Section 421.2 of the B.C.Z.R. Therefore, the alternative relief sought within the Petition for Special Hearing is not necessary and shall be dismissed as moot.

As to the variance relief sought, Mr. Cannon testified that the Danville Square Shopping Center abuts a residential zone to the rear of this site. In fact, there is a Baltimore Gas and Electric right-of-way to the rear of this property and there are existing overhead electrical transmission lines and public utilities located therein. The zoning line from

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[Signature]

B.M. to D.R. 10.5 actually runs down the center of this right-of-way. In actuality, the nearest residence to the subject property is some 250 feet away, outside the required 200-foot distance. The 130-foot distance the Petitioners indicated will be maintained is the distance between the subject property and the electrical lines, not its distance from any residential use. It is further noted that the proposed Petstuff/Petsmart store will not have outside storage of animals. All pets offered for sale will be located within the proposed store so that no noise or odors associated with the proposed use will permeate into the surrounding residential uses.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to

show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property

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By [Signature]

line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertising, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the special hearing and variance should be granted.

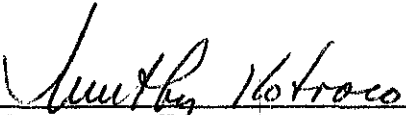
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of July, 1995 that the use of the premises at 1559 Merritt Boulevard (20,078 sq.ft.) for a pet shop with no outside facilities for pets, in accordance with Petitioner's Exhibit 1, is permitted under the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 421.2 thereof, and as such, the Petition for Special Hearing be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 421.2 to permit a pet shop use within 130 feet of a residential zone in lieu of the required 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the alternative relief sought within the Petition for Special Hearing to approve the use of the subject property for a Petstuff/Petsmart store, the principal use of which is the sale of food and supplies for pets, and that the sale of pets is an accessory use which occupies less than 5% of the premises, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED AS MOOT.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 7/11/95
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

July 10, 1995

Robert W. Cannon, Esquire
Weinberg & Green LLC
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
SW/S Merritt Boulevard, 1100' NW of Trappe Road
(1501-1575 Merritt Boulevard)
12th Election District - 7th Councilmanic District
Merritt Boulevard Property Partnership - Petitioners
Case No. 95-421-SPHA

Dear Mr. Cannon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Donald H. Ready, Partner
Merritt Boulevard Property Partnership
306 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. James Kline, G. W. Stephens, Jr. & Associates, Inc.
658 Kenilworth Drive, Suite 100, Towson, Md. 21204

People's Counsel; File



418



Petition for Special Hearing

95-421-5PHA

to the Zoning Commissioner of Baltimore County

for the property located at

Danville Square Shopping Center
1501-1575 Merritt Boulevard

which is presently zoned

BM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under the Zoning Regulations even though located 130 feet from the nearest residential zone rather than the 200 feet required under Section 421.2 for an animal boarding place, kennel, or pet shop under circumstances where the abutting residentially zoned property is being used for public utility transmission lines to a depth of 200 feet leaving a distance of 230 feet between the pet shop use and the adjacent property being used for residential purposes. The spirit and intent of Section 421 is being fully observed by this use under these circumstances where animal noises to residents will be non-existent and where the actual distance between the pet shop use and the residential use of the property beyond the transmission lines meets the 200 foot requirement.

Alternatively, the use of the subject property for Petstuff/PetSmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use and consists of less than 5 % of the premises and less than 5 % of the projected revenues from the store.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

(Type or Print Name)

Merritt Boulevard Property Partnership

(Type or Print Name)

Signature

Signature

Address

DONALD H. READY, PARTNER

(Type or Print Name)

City

State

Zipcode

Signature

Attorney for Petitioner:

Robert W. Cannon

(Type or Print Name)

Signature

Weinberg & Green LLC

100 South Charles Street (410) 332-8816

Address

Phone No.

Baltimore, Maryland 21201

City

State

Zipcode

306 West Pennsylvania Avenue

(410) 821-1935

Address

Phone No.

Towson, Maryland 21204

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Robert W. Cannon

Weinberg & Green LLC

Name

100 South Charles Street

Baltimore, Maryland 21201

(410) 332-8816

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

MICROFILMED

ORDER RECEIVED FOR FILING

Date

By

DROP-OFF
NO REVIEW

5-18-95

WCR



418



Petition for Variance

75-421-SPA

to the Zoning Commissioner of Baltimore County

for the property located at

Danville Square Shopping Center
1501-1575 Merritt Boulevard

which is presently zoned

BM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 421.2 to locate a pet shop use within 130 feet from the residential zone extending to the centerline of the abutting property (said residential zone property being currently used as the location of public utility electrical transmission lines to a depth of 100 feet) in lieu of the required 200 feet distance, a variance of 70 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Strict compliance with the Zoning Regulations would result in practical difficulty and unreasonable hardship because this area regulation would effectively preclude the use of the property for a regular shopping center use. The requested variances are in harmony with the spirit and intent of the zoning regulations and would not result in substantial injury to the public health, safety and general welfare.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

Robert W. Cannon

(Type or Print Name)

Signature

Weinberg & Green LLC

100 South Charles Street

(410) 332-8816

Address

Baltimore, Maryland 21201

State

Zipcode

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Legal Owner(s)

Merritt Boulevard Property Partnership

(Type or Print Name)

Signature

DONALD H. READY, PARTNER

(Type or Print Name)

Signature

306 West Pennsylvania Avenue

(410) 821-1935

Address

Phone No

Towson, Maryland 21204

City

State

Zipcode

Name Address and phone number of representative to be contacted

Robert W. Cannon

Weinberg & Green LLC

Name

100 South Charles Street

Baltimore, Maryland 21201

(410) 332-8816

Address

Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

ORDER RECEIVED FOR FILING

Date

DROP-OFF
No REVIEW

5-18-95

WCR

Printed with Soybean Ink
on Recycled Paper

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418

95-421-SPHA

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

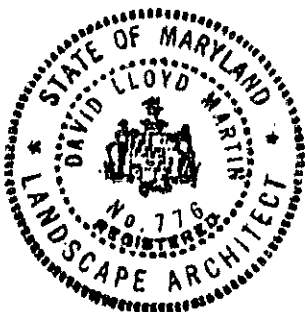
Description to accompany Zoning Petition,
DANVILLE SQUARE SHOPPING CENTER.

May 12, 1995

Beginning for the same at a pin and cap found on the east side of Merritt Boulevard, 120 feet wide, 420 feet more or less from the north side of Westfield Road, said point of beginning being designated 'C' on a Plat entitled "Resubdivision Plat of Laurelwood" dated January 18, 1966, recorded among the Plat Records of Baltimore County, Maryland in Plat Book O.T.G. 31 folio 56, running thence leaving said point of beginning, binding on said east side of Merritt Boulevard and binding on the western boundary of Lot Two, shown on said Plat, 1) North 14 degrees 53 minutes 38 seconds West 750.36 feet to a pipe found, running thence leaving said Merritt Boulevard, binding on the division line between Lot One and Lot Two, reversing the bearing on said Plat, 2) North 75 degrees 06 minutes 22 seconds East 437.00 feet to a pipe found, running thence binding on the eastern boundary of Lot Two, shown on said Plat, 3) South 14 degrees 53 minutes 38 seconds East 750.36 feet to a pin and cap found at the point designated 'B' on said Plat, running thence binding on the southern boundary of Lot Two, shown on said Plat, 4) South 75 degrees 06 minutes 22 seconds West 437.00 feet to the point of beginning.

Containing 7.528 acres of land more or less.

(NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS)



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

95-471-SPH17

District 12th

Date of Posting 6/4/95

Posted for: Special Hearing & Variances

Petitioner: Merritt Blvd Property Partnership

Location of property: 1501-1575 Merritt Blvd. SW/S

Location of Signs: Facing roadway on property being zoned

Remarks:

Posted by

W. Steady
Signature

Date of return:

Number of Signs:

1



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:

95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard, Danville Square Shopping Center SW/8 Merritt Boulevard, 1100' +/- NW of Trappe Rd.
12th Election District
7th Councilmanic
Legal Owner(s):
Merritt Boulevard
Property Partnership
HEARING: TUESDAY,
JUNE 20, 1995 at 10:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing: to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use. **Variance:** to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 feet distance.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

6/25 June 1.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

6/1, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/1, 1995

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

~~Publication~~



Baltimore County
**Zoning Administration &
Development Management**
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-421-SP4A

Account: R-001-6150

Number 418 (WCR)

DROP-OFF — NO REVIEW

Date 5/18/95

#020 - VARIANCE ----- \$250.00

#040 - SPECIAL HEARING ----- 250.00

#080 - SIGNS (\$35@)-2 Signs- 70.00

TOTAL ----- \$570.00

Legal Owner: Merritt Boulevard Property Partnership
Danville Square Shopping Center
1501-1575 Merritt Boulevard
7.528 +/- acres
12th Election District
7th Councilmanic District
Zoned B.M.
Robert W. Cannon, Esquire

Check from Danville Square

PAID

01A01W0412M1CHRC
BA COUR: (17FMD5-18-95

\$570.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

TO: PUTUXENT PUBLISHING COMPANY
June 1, 1995 Issue - Jeffersonian

Please forward billing to:

Robert W. Cannon, Esq.
Weinberg & Green LLC
100 S. Charles Street
Baltimore, MD 21201
332-8816

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard
Danville Square Shopping Center
SW/S Merritt Boulevard, 1100'+/- NW of Trappe Road
12th Election District - 7th Councilmanic
Legal Owner(s): Merritt Boulevard Property Partnership
HEARING: TUESDAY, JUNE 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use.
Variance to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 feet distance.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

WILCOX-11-11-11

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 26, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard
Danville Square Shopping Center
SW/S Merritt Boulevard, 1100' +/- NW of Trappe Road
12th Election District - 7th Councilmanic
Legal Owner(s): Merritt Boulevard Property Partnership
HEARING: TUESDAY, JUNE 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use.
Variance to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 feet distance.

A handwritten signature in black ink, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Merritt Boulevard Property Partnership
Robert W. Cannon, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 14, 1995

Robert W. Cannon, Esquire
Weinberg & Green, LLC
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No.: 418
Case No.: 95-421-SPHA
Petitioner: Merritt Blvd. Property

Dear Mr. Cannon:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on May 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED



Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/31/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: MERRITT BOULEVARD PROPERTY PARTNERSHIP

LOCATION: SW/S MERRITT BLVD., 1100' +/- NW OF TRAPPE RD. (1501-1575
MERRITT BLVD.- DANVILLE SQUARE SHOPPING CENTER)

Item No.: 418

Zoning Agenda: SPECIAL HEARING

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED

JUN 1 1995

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 7, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning



SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 412, 416 and 418

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Garry L. Kerns

PK/JL

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: June 5, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for June 5, 1995
Items 413, 414, 415, 416, 417, 418 and 419 &

The Developers Engineering Section has reviewed
the subject zoning item and we have no comments.

RWB:sw

Handwritten: 6/5/95

To: *Joyce Watson*

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM

DATE: 6/2/95

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: 5/30/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 413

414

415

417

418

419

LS:sp

LETTY2/DEPRM/TXTSBP



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-26-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 418 (WCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for *Bob Small*
Ronald Burns, Chief
Engineering Access Permits
Division

BS/



Zoning

Enforcement

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Carl W. Richards
Zoning Coordinator

May 22, 1995

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 418

VIOLATION CASE # C-95-1425
LOCATION OF VIOLATION 1559 MERRITT BLVD.
DEFENDANT PETSTUFF
ADDRESS DANVILLE SQUARE SHOPPING CENTER

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME & ADDRESS

P & L

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

RVG: [illegible]

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 7, 1995

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, MD 21201

95-421

RE: Preliminary Petition Review (Item #418)
Legal Owner: Merritt Boulevard Property
Partnership
Danville Square Shopping Center
1501-1575 Merritt Boulevard
12th Election District

Dear Mr. Cannon:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

1. List all uses and accompanying parking calculations.
2. Add the scale.
3. Add any prior zoning cases, i.e., case number, approval date, what was granted or denied, plus list any restrictions. Otherwise, state "no prior zoning hearings on site".



Robert W. Cannon, Esquire
June 7, 1995
Page 2

4. Add street address.
5. Show signs (dimensions and their setbacks to property lines).
6. Add Floor Area Ratio (FAR).
7. Add flood zone information (i.e., map number and zone).
8. Show aisle width in rear (by the dock).

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,



John J. Sullivan, Jr.
Planner II

JJS:scj

Enclosure (receipt)

cc: Zoning Commissioner

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
PETITION FOR VARIANCE		
1501-1575 Merritt Boulevard (Danville	*	ZONING COMMISSIONER
Square Shopping Ctr), SW/S Merritt Blvd.,		
1100'+/- NW of Trappe Road. 12th	*	OF BALTIMORE COUNTY
Election District, 7th Councilmanic		
	*	CASE NO. 95-421-SPHA
Merritt Boulevard Property Partnership		
Petitioner	*	

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN
 People's Counsel for Baltimore County

Carole S. Demilio
 CAROLE S. DEMILIO
 Deputy People's Counsel
 Room 47, Courthouse
 400 Washington Avenue
 Towson, MD 21204
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 1995, a copy of the foregoing Entry of Appearance was mailed to Robert W. Cannon, Esquire, Weinberg & Green, LLC, 100 S. Charles Street, Baltimore, MD 21201, attorney for Petitioners.

Peter Max Zimmerman
 PETER MAX ZIMMERMAN

WICRETI.MFD

2169-75
5/17/95
418
95-421-SPH A

WEINBERG & GREEN LLC

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

TELEPHONE 410/332 8600
WASHINGTON AREA 301/470 7400
FACSIMILE 410/332 8862

10480 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3506
410/740 8500

ROBERT W. CANNON
410/332 8816

FILE NUMBER
13224.86

May 15, 1995

VIA HAND DELIVERY

Mr. W. Carl Richards, Jr.
Office of Zoning Administration and
Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Carl:

Enclosed you will find the package of materials relating to the Petition for Variance and Petition for Special Hearing relating to the store operated in Danville Square by Petstuff/Petsmart. This material is being forwarded to you, together with checks for the filing fee.

Please call me with any questions that you have relating to this material. Your cooperation in our efforts to have this heard on an expedited basis would be appreciated.

Sincerely yours,



Robert W. Cannon

25099:DS13:jd7_1/0081/ksm

Enclosures

RECEIVED
MAY 17 1995
ZADM

2183-95

WEINBERG
& GREEN LLC100 South Charles Street
Baltimore, Maryland 21201
410/332 8600 • FAX 410/332 8862#418
95-421-SPHA

FACSIMILE TRANSMITTAL

To: Carl Richards

From: Robert Cannon

Company:

Direct No. 410/332-8816

City:

State:

Date: 5/18/95

Fax No: () 887-5708

Time:

FAX () 887 3353

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Weinberg & Green LLC 195

5/18/95

✓

#418

WEINBERG & GREEN LLC

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773

TELEPHONE 410/332 8600
WASHINGTON AREA 301/470 7400
FACSIMILE 410/332 8862

10480 FITTLE PATRICK PARKWAY
COLUMBIA, MARYLAND 21044-3500
410/740 8500

ROBERT W. CANNON
410/332 8816

FILE NUMBER
13224.92

95-421-SHA

May 15, 1995

VIA FACSIMILE

Mr. W. Carl Richards, Jr.
Office of Zoning Administration and
Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

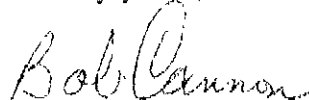
Re: Danville Square Shopping Center - 1501-1575 Merritt Boulevard,
Dundalk, Maryland (the "Project"), 12th Election District

Dear Carl:

In my letter to you dated May 15, 1995, I requested your assistance in an expedited hearing. The reasons for this are two-fold. First, the owner is going through a refinancing and we have committed to proceed as promptly as possible in order to overcome the concerns that have been expressed by the lender as a result of the existing conditions. Second, the specific tenant involved, Petstuff, is involved in merger negotiations with another national company known as Petsmart. The existing conditions have presented a matter of concern to both of the parties in this transaction and we have committed to them that we will do our very best to have this matter concluded as promptly as possible.

Your assistance in this regard would be appreciated.

Sincerely yours,



Robert W. Cannon

WEINBERG
& GREEN LLC

5/23/95
8

P.1

95-421-SPHA

100 South Charles Street
Baltimore, Maryland 21201
410/332 8862 FAX 410/332 8862

FACSIMILE TRANSMITTAL

To: Earl Richards

From: Robert Cannon

Company: Allen Sophia

Direct No. 410/332-8816

City: State:

Date: 5/23/95

Fax No: () 887-5708

Time:

Phone No: () 887-3353

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follow by mail: Yes _____ No _____

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Weinberg & Green LLC 1.95

SUPPLEMENT TO



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

Farville Square Shopping Center
1571-1575 Merritt Boulevard

which is presently zoned

EM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under the Zoning Regulations notwithstanding Section 421.2.

Alternatively, the use of the subject property for PetsLuff/Petsmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use.

Previously, the property was used and advertised as prescribed by Zoning Regulations

I, _____, persons of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and
and _____ the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

City _____

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition)

Legal Owner(s)

Merritt Boulevard Property Partnership

(Type or Print Name)

Signature

Robert W. Cannon, Authorized Representative

(Type or Print Name)

Signature

306 West Pennsylvania Avenue (410) 821-1935

Address

Phone No.

Towson, Maryland 21204

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Robert W. Cannon

Weinberg & Green LLC

Name

100 South Charles Street

Baltimore, Maryland 21201

(410) 332-8816

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates

Next Two Dates

ALL

OTHER

REVIEWED BY:

DATE

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

JIM KLINE (G.W. STEPHENS) 658 KENILWORTH DRIVE TOWSON


ROBERT W. CANNON (WEINBERG & GREEN) 100 SOUTH CHARLES ST. 21201

DONALD H. READY (OWNER) 306 W. PENNSYLVANIA AVE. TOWSON 21204

Jerry Gordon 14430 Pennsylvania St. Pk 4 Pk



26th Yr.



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- SMALL ANIMALS
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- DELIVERY
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Clara's Tropicals 3 Pinewood Rd Dundalk 285-2018

CORAL REEF FISH & PET

One Stop - For All Your Fish, Pet, & Bird Needs
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Crystals Critters 3736 Eastern Av Baltimore 675-1255

Docktor Pet Centers
Laurel Centre Mall Laurel 301 776-7387
Harundale Mall Glen Burnie 761-1345

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10790 Old Frederick Rd Woodstock 418-8899

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2441 F Mountain Rd Pasadena 255-1651

Going To The Dogs Jarrettsville 557-7810

Green Iguana Inc The
2027 Suffolk Rd Finksburg 833-1960

House Of Pets 7960 Belair Rd 668-7387

HOUSE OF TROPICALS INC

7389 F Baltimore-Annapolis Blvd NW
Glen Burnie 761-1113
(See Our Ad This Page)

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ASK ABOUT OUR WEEKLY SPECIALS
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KNOWLEDGEABLE & COURTEOUS STAFF
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Karl's Westowne Tropicals

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Full Line Pet Supplies - Warehouse Prices
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Laurel Lakes Centre Laurel 301 604-8499

Middlesex Pet Middlesex Shopping Center 574-5054

Nanny's Pet's Supplies
Starlight Plaza Edgewood 679-0366

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Pet Pantry 3691 Offutt Rd Randallstown 922-2511

PET PANTRY

6362 York Rd 377-4507

Pet Pantry Yorktown Plz Cockeysville 628-2270

PET PEDDLERS 6416 Frederick Rd Catonsville 744-2222
(See Our Ad This Page)

Pet Place 673 Old Mill Rd Millersville 987-5499

Pet Set Plus Inc 49 Main St Reisterstown 833-5180

Petco 915 Washington Blvd Laurel 301 490-7452

Pettrax

Columbia Mall 730-1893

Eastpoint Mall 288-5000

Poochies 25 Liberty Rd Sykesville 549-7574

Quality Fish Center
1223 W Pratt St Baltimore 783-1193

RABBIT HILL DWARF & LOP RABBITRY
Darnicus 301 253-6334

Royal Pet Inc The
338 Hospital Dr Glen Burnie 768-9890

Sea Breeze Pet Center 1770 York Rd 252-7316

Silver Hydrant Pet Care Studio
9065 Frederick Rd Ellicott City 461-2233

Underwater Pets & Friends
140 Village Shopping Ctr Westminster Reisterstown Tel No - 876-5180

Wee Pets 3901 Erdman Av 563-3126

White Marsh Pet Centers White Marsh Mall 931-6844

Your Companions Country Store
5399 Enterprise St Sykesville 795-0266

PET SITTING SERVICES

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Bay Country Veterinary Hospital
Md Rts 32 & 178 Crownsville 987-4242

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Hydes 592-9090

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6314 Falls Rd 337-3595

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Pet Sitters Extraordinaire
1807 Oriole Ct Severn 674-6774

Petwatch Pet Sitting Service
1402 Charokee Ln Bel Air 893-2540

TOWSON DOG & CAT HOTEL INC
714 1/2 York Rd 823-5106

PET SPAY - NEUTER SERVICE

See "Veterinarians"

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James S. Kline

Planner
Towson

Mr. Kline has been with G. W. Stephens & Associates since 1976. His areas of specialization include the following:

Residential, Commercial, Institutional & Industrial
Project Planning & Design

Feasibility Studies for Drainage, Sewage & Water

Chesapeake Bay Critical Area Studies

Property Title Research

Environmental Reports

Community Relations & Legislative Reviews & Input

Expert Witness - Land Planning & Zoning

Drafting & Exhibits

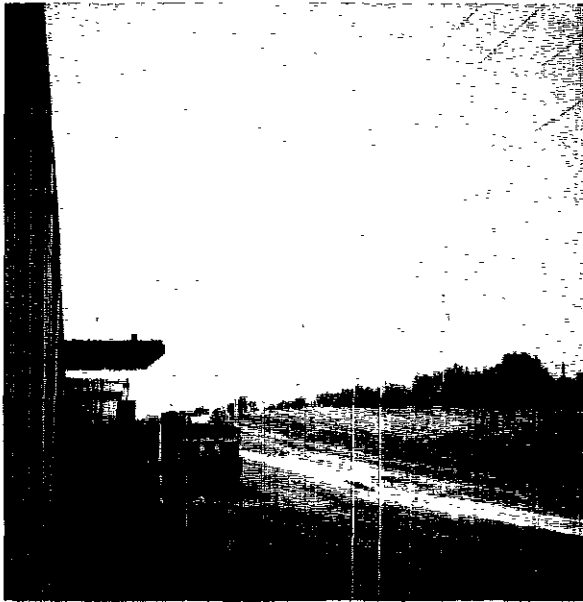
Mr. Kline's experience also includes 4 years with other Baltimore area consulting engineering firms and 3 years with the Baltimore County Department of Public Works.

Education

Harford Community College
Continuing Education: Engineering & Math Courses

Baltimore County Department of Public Works - 2 Year
Educational Program: Highway Design

**PETITIONER'S
EXHIBIT 7**



#1

Pet Ex 3



#2

Pet Ex 4



#3

Pet Ex 5



11-1

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE - SW/S Merritt Blvd., * DEPUTY ZONING COMMISSIONER
1100' NW of Trappe Road (1501-1575 Merritt Boulevard)
12th Election District * OF BALTIMORE COUNTY
7th Councilmanic District * Case No. 95-421-SPHA
Merritt Boulevard Property Partnership
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Variance for that property known as 1501-1575 Merritt Boulevard, also known as the Danville Square Shopping Center, located in the vicinity of Gray Manor in Dundalk. The Petitions were filed by the owners of the property, the Merritt Boulevard Property Partnership, by Donald H. Ready, Partner, through their attorney, Robert W. Cannon, Esquire. The Petitioners request a special hearing to approve the use of the premises at 1559 Merritt Boulevard, consisting of 20,078 sq.ft., for a pet shop with no outside facilities for pets, as being permitted under the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 421.2 thereof. In the alternative, the Petitioner seeks approval of the use of the subject property for a Petstuff/Petsmart store, the principal use of which is the sale of food and supplies for pets, and that the sale of pets is an accessory use which occupies less than 5% of the premises. In addition to the special hearing request, the Petitioners seek relief from Section 421.2 to permit a pet shop use within 130 feet of a residential zone in lieu of the required 200 feet. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Donald H. Ready, one of

the owners of the property, James Kline, Professional Engineer, Jerry Gordon, District Manager for Petstuff/Petsmart, and Robert W. Cannon, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property is the site of the Danville Square Shopping Center located on Merritt Boulevard in Dundalk. The shopping center consists of approximately 73,206 sq.ft. of retail space, and includes a restaurant, bank and associated parking. The Petitioners recently completed renovations to the shopping center and are desirous of leasing approximately 20,078 sq.ft. to Petstuff/Petsmart, a retail store which caters to the needs of pets and their owners by supplying food and accessories for pets. In addition to pet supplies, a small portion of the business includes the sale of pets to the general public. Inasmuch as the shopping center is located 130 feet from a residential zone, the requested variance is necessary in order to proceed as proposed. Testimony revealed, however, that this residential property is being used for public utilities and electrical transmission lines and that the nearest residence is actually 250 feet away.

In the opinion of this Deputy Zoning Commissioner, the use proposed at this location meets the spirit and intent of the zoning regulations, specifically, the requirements of Section 421.2 of the B.C.Z.R. Therefore, the alternative relief sought within the Petition for Special Hearing is not necessary and shall be dismissed as moot.

As to the variance relief sought, Mr. Cannon testified that the Danville Square Shopping Center abuts a residential zone to the rear of this site. In fact, there is a Baltimore Gas and Electric right-of-way to the rear of this property and there are existing overhead electrical transmission lines and public utilities located therein. The zoning line from

B.M. to D.R. 10.5 actually runs down the center of this right-of-way. In actuality, the nearest residence to the subject property is some 250 feet away, outside the required 200-foot distance. The 130-foot distance the Petitioners indicated will be maintained is the distance between the subject property and the electrical lines, not its distance from any residential use. It is further noted that the proposed Petstuff/Petsmart store will not have outside storage of animals. All pets offered for sale will be located within the proposed store so that no noise or odors associated with the proposed use will permeate into the surrounding residential uses.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to

show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property

line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertising, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the special hearing and variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of July, 1995 that the use of the premises at 1559 Merritt Boulevard (20,078 sq.ft.) for a pet shop with no outside facilities for pets, in accordance with Petitioner's Exhibit 1, is permitted under the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 421.2 thereof, and as such, the Petition for Special Hearing be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 421.2 to permit a pet shop use within 130 feet of a residential zone in lieu of the required 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the alternative relief sought within the Petition for Special Hearing to approve the use of the subject property for a Petstuff/Petsmart store, the principal use of which is the sale of food and supplies for pets, and that the sale of pets is an accessory use which occupies less than 5% of the premises, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED AS MOOT.

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

July 10, 1995

(410) 887-4386

Robert W. Cannon, Esquire
Weinberg & Green LLC
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
SW/S Merritt Boulevard, 1100' NW of Trappe Road
(1501-1575 Merritt Boulevard)
12th Election District - 7th Councilmanic District
Merritt Boulevard Property Partnership - Petitioners
Case No. 95-421-SPHA

Dear Mr. Cannon:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Donald H. Ready, Partner
Merritt Boulevard Property Partnership
306 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. James Kline, G. W. Stephens, Jr. & Associates, Inc.
658 Kenilworth Drive, Suite 100, Towson, Md. 21204

People's Counsel; File

Petition for Special Hearing
to the Zoning Commissioner of Baltimore County
for the property located at Danville Square Shopping Center
1501-1575 Merritt Boulevard
which is presently zoned BH

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 502.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under the Zoning Regulations even though located 130 feet from the nearest residential zone rather than the 200 feet required under Section 421.2 for an animal boarding place, kennel, or pet shop under circumstances where the abutting residentially zoned property is being used for public utility transmission lines to a depth of 200 feet leaving a distance of 230 feet between the pet shop use and the adjacent property being used for residential purposes. The spirit and intent of Section 421 is being fully observed by this use under these circumstances where animal noises and residents will be non-existent and where the actual distance between the pet shop use and the residential use of the property beyond the transmission lines meets the 200 foot requirement. Alternatively, the use of the subject property for Petstuff/Petsmart has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use and consists of less than 5% of the premises and less than 5% of the projected revenues from the store.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and resolutions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Counsel:

Correct Petitioner:

Type or Print Name:

Signature:

Address:

City:

State:

Zip:

Attorney for Petitioner:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:

Name, Address and phone number of representative to be contacted:

Signature:



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at
Danville Square Shopping Center
1501-1575 Merritt Boulevard
which is presently zoned RM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 421.2 to locate a pet shop use within 130 feet from the residential zone extending to the centerline of the abutting property (said residential zone property being currently used as the location of public utility electrical transmission lines to a depth of 100 feet) in lieu of the required 200 foot distance, a variance of 70 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)
Strict compliance with the Zoning Regulations would result in practical difficulty and unreasonable hardship because this area regulation would effectively preclude the use of the property for a regular shopping center use. The requested variance is in harmony with the spirit and intent of the zoning regulations and would not result in substantial injury to the public health, safety and general welfare.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Owner
Type or Print Name
Signature
Address
City
State
Zip Code

Legal Owner(s)
Merritt Boulevard Property Partnership
Type or Print Name
Signature
Address
City
State
Zip Code

Attorney for Petitioner
Robert W. Cannon
Type or Print Name
Signature
Address
City
State
Zip Code

Submitter
Weinberg & Green LLC
100 South Charles Street
Baltimore, Maryland 21201
Phone No. (410) 332-8816

DEFENSE USE ONLY
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following date
Next Two Months
ALL OTHER
REVIEWED BY
DATE

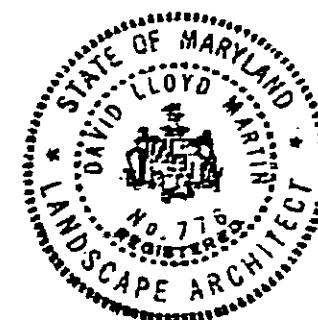
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FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS JR. & ASSOCIATES, INC.
ENGINEERS
948 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to accompany Zoning Petition, May 12, 1995
DANVILLE SQUARE SHOPPING CENTER.

Beginning for the same at a pin and cap found on the east side of Merritt Boulevard, 120 feet wide, 420 feet more or less from the north side of Westfield Road, said point of beginning being designated 'C' on a Plat entitled "Resubdivision Plat of Laurelwood" dated January 18, 1966, recorded among the Plat Records of Baltimore County, Maryland in Plat Book O.T.G. 31 Folio 56, running thence leaving said point of beginning, binding on said east side of Merritt Boulevard and binding on the western boundary of Lot Two, shown on said Plat, 1) North 14 degrees 53 minutes 38 seconds West 750.36 feet to a pipe found, running thence leaving said Merritt Boulevard, binding on the division line between Lot One and Lot Two, reverting the bearing on said Plat, 2) North 75 degrees 06 minutes 22 seconds East 437.00 feet to a pipe found, running thence binding on the eastern boundary of Lot Two, shown on said Plat, 3) South 14 degrees 53 minutes 38 seconds East 750.36 feet to a pin and cap found at the point designated 'S' on said Plat, running thence binding on the southern boundary of Lot Two, shown on said Plat, 4) South 75 degrees 06 minutes 22 seconds West 437.00 feet to the point of beginning.
Containing 7.528 acres of land more or less.

(NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS)



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12th Date of Posting: 4/4/95
Posted for: Special Hearing to Variance
Petitioner: Merritt Blvd. Property Partnership
Location of property: 1501-1575 Merritt Blvd. sub
Location of Signs: Along road on property being zoned
Remarks:
Posted by: Merritt Blvd. Property Partnership Date of return: 6/8/95
Number of Signs: 4

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein, in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on June 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number:
95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard, Danville Square Shopping Center SW/S Merritt Boulevard, 1100' +/- NW of Trappe Road 12th Election District 7th Councilmanic Legal Owner(s): Merritt Boulevard Property Partnership HEARING: TUESDAY, JUNE 20, 1995 at 10:00 a.m. in Rm. 118, Old Courthouse.
Special Hearing: to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsturt has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use. Variance to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 foot distance.
LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are held on Wednesdays for special accommodations. Please call 887-3353. (2) For information concerning the file and/or hearing, please call 887-3391. 6025 June 1.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/11, 1995
THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/11, 1995

THE JEFFERSONIAN,
A. Henrichson
LEGAL AD. - TOWSON



Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
95-421-SPHA

Account: R-001-6150
Number: 418 (WCR)
DROP-OFF NO REVIEW
Date: 5/18/95
#020 - VARIANCE \$250.00
#040 - SPECIAL HEARING 250.00
#080 - SIGNS (\$350)-2 Signs- 70.00
TOTAL \$570.00
Legal Owner: Merritt Boulevard Property Partnership
Danville Square Shopping Center
1501-1575 Merritt Boulevard
7,528 +/- acres
12th Election District
7th Councilmanic District
Zoned B.M.
Robert W. Cannon, Esquire
Check from Danville Square
01A01#0412M1CHRG \$570.00
BA C030219PMD05-18-95
Please Make Checks Payable To: Baltimore County
Cashier Validation

TO: PUBLISHER PUBLISHING COMPANY
June 1, 1995 Issue - Jeffersonian

Please forward billing to:
Robert W. Cannon, Esq.
Weinberg & Green LLC
100 S. Charles Street
Baltimore, MD 21201
332-8816

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204, on June 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard
Danville Square Shopping Center
SW/S Merritt Boulevard, 1100' +/- NW of Trappe Road
12th Election District - 7th Councilmanic
Legal Owner(s): Merritt Boulevard Property Partnership
HEARING: TUESDAY, JUNE 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsturt has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use. Variance to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 foot distance.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

May 26, 1995
NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204, on June 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-421-SPHA (Item 418)
1501-1575 Merritt Boulevard
Danville Square Shopping Center
SW/S Merritt Boulevard, 1100' +/- NW of Trappe Road
12th Election District - 7th Councilmanic
Legal Owner(s): Merritt Boulevard Property Partnership
HEARING: TUESDAY, JUNE 20, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Special Hearing to approve the use of the premises at 1559 Merritt Boulevard consisting of approximately 20,078 square feet as a pet shop with no outside facilities for pets as being permitted under Zoning Regulations, notwithstanding Section 421.2. Alternatively, the use of the subject property for Petstuff/Petsturt has as its principal use the sale of food and supplies relating to pets. The sale of pets is an accessory use supporting the principal use. Variance to locate a pet shop within 130 feet from the residential zone extending to the centerline of the abutting property in lieu of the required 200 foot distance.

Arnold Jablon
Director

cc: Merritt Boulevard Property Partnership
Robert W. Cannon, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

June 14, 1995

Robert W. Cannon, Esquire
Weinberg & Green, LLC
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No.: 418
Case No.: 95-421-SPHA
Petitioner: Merritt Blvd. Property

Dear Mr. Cannon:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on May 18, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

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Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500 (410) 887-4500

DATE: 05/31/95

Arnold Jablon
Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: MERRITT BOULEVARD PROPERTY PARTNERSHIP
LOCATION: SW/S MERRITT BLVD., 1100' +/- NW OF TRAPPE RD. (1501-1575 MERRITT BLVD.- DANVILLE SQUARE SHOPPING CENTER)

Item No.: 418 Zoning Agenda: SPECIAL HEARING

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

RECEIVED
JUN 1 1995
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 7, 1995

FROM: Pat Keller, Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 412, 416 and 418

If there should be any further questions or if this office can provide additional
information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. LongDivision Chief: Carol L. Kerns

PK/JL

ITEM418/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management

DATE: June 5, 1995

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for June 5, 1995
Items 413, 414, 415, 416, 417, 418 and 419

The Developers Engineering Section has reviewed
the subject zoning item and we have no comments.

RWB:sw

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM
FROM: DEPRM
Development Coordination
SUBJECT: Zoning Advisory Committee
Agenda: 5/26/95

DATE: 6/3/95

The Department of Environmental Protection & Resource Management has no
comments for the following Zoning Advisory Committee Items:

Item #'s: 413
414
415
417
418
419

LS:sp

LETTY2/DEPRM/TXTSBP

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassell
Administrator

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 418 (WCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to
approval as it does not access a State roadway and is not effected by any State Highway
Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for Ronald Burns, Chief
Engineering Access Permits
Division

BS/

Zoning
Enforcement

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Carl W. Richards
Zoning Coordinator

May 22, 1995

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 418

VIOLATION CASE # C-95-1425
LOCATION OF VIOLATION 1559 MERRITT BLVD.
DEFENDANT PETSTUFF
ADDRESS DANVILLE SQUARE SHOPPING CENTER

Please be advised that the aforementioned petition is the subject
of an active violation case. When the petition is scheduled for a
public hearing, please notify the following persons:

NAME & ADDRESS

P & L

After the public hearing is held, please send a copy of the Zoning
Commissioner's Order to the Zoning Enforcement Coordinator, so that the
appropriate action may be taken relative to the violation case.

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 7, 1995

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, MD 21201

RE: Preliminary Petition Review (Item #418)
Legal Owner: Merritt Boulevard Property
Partnership
Danville Square Shopping Center
1501-1575 Merritt Boulevard
12th Election District

Dear Mr. Cannon:

At the request of the attorney/petitioner, the above referenced petition was
accepted for filing without a final filing review by the staff. The plan was accepted with
the understanding that all zoning issues/filing requirements would be addressed. A
subsequent review by the staff has revealed unaddressed zoning issues and/or
incomplete information. The following comments are advisory and do not necessarily
identify all details and inherent technical zoning requirements necessary for a complete
application. As with all petitions/plans filed in this office, it is the final responsibility of
the petitioner to make a proper application, address any zoning conflicts and, if
necessary, to file revised petition materials. All revisions (including those required by
the hearing officer) must be accompanied by a check made out to Baltimore County,
Maryland for the \$100.00 revision fee.

1. List all uses and accompanying parking calculations.
2. Add the scale.
3. Add any prior zoning cases, i.e., case number, approval date, what was
granted or denied, plus list any restrictions. Otherwise, state "no prior zoning
hearings on site".

Robert W. Cannon, Esquire
June 7, 1995
Page 2

4. Add street address.
5. Show signs (dimensions and their setbacks to property lines).
6. Add Floor Area Ratio (FAR).
7. Add flood zone information (i.e., map number and zone).
8. Show aisle width in rear (by the dock).

If you need further information or have any questions, please do not hesitate
to contact me at 887-3391.

Very truly yours,

John J. Sullivan, Jr.
John J. Sullivan, Jr.
Planner II

JJS:scj

Enclosure (receipt)

cc: Zoning Commissioner

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
PETITION FOR VARIANCE * ZONING COMMISSIONER
1501-1575 Merritt Boulevard (Danville *
Square Shopping Ctr), SW/S Merritt Blvd., *
1100 +/- NW of Trappe Road, 12th *
Election District, 7th Councilmanic *
Merritt Boulevard Property Partnership *
Petitioner *
* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-
captioned matter. Notice should be sent of any hearing dates or other
proceedings in this matter and of the passage of any preliminary or
final order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

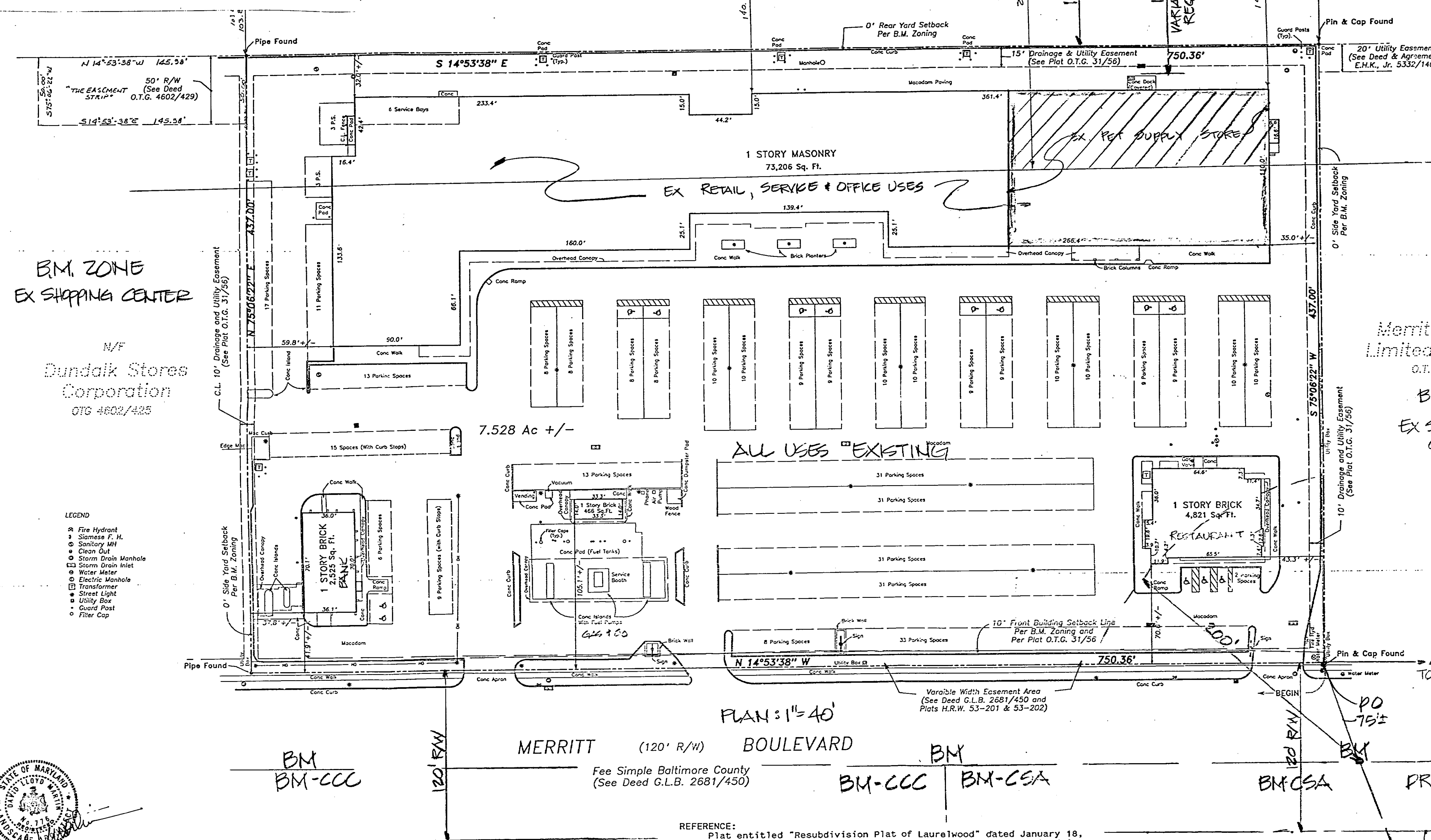
I HEREBY CERTIFY that on this 13th day of June, 1995, a copy of
the foregoing Entry of Appearance was mailed to Robert W. Cannon,
Esquire, Weinberg & Green, LLC, 100 S. Charles Street, Baltimore, MD
21201, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

DESCRIPTION:

Beginning for the same at a pin and cap found on the east side of Merritt Boulevard, 120 feet wide, said point of beginning being designated 'C' on a Plat entitled "Resubdivision Plat of Laurelwood" dated January 18, 1968, recorded among the Plat Records of Baltimore County, Maryland in Plat Book O.T.G. 31 folio 56, running thence leaving said point of beginning, binding on said east side of Merritt Boulevard and binding on the western boundary of Lot Two, shown on said Plat, 1) North 14 degrees 53 minutes 38 seconds West 750.36 feet to a pipe found, running thence leaving said Merritt Boulevard, binding on the division line between Lot One and Lot Two, reversing the bearing to a pipe found, running thence binding on the eastern boundary of Lot Two, shown on said Plat, 3) South 14 degrees 53 minutes 38 seconds East 750.36 feet to a pin and cap found at the point designated 'B' on said Plat, running thence binding on the southern boundary of Lot Two, shown on said Plat, 4) South 75 degrees 06 minutes 22 seconds West 437.00 feet to the point of beginning. Containing 7.528 acres of land more or less.

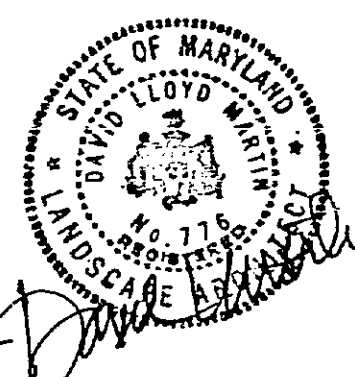
Baltimore Gas and Electric Company R/W
(See: T.R.S. 1882/526, L.M.L.M. 905/414 & L.M.L.M. 906/462)
(Also See: L.M.L.M. 853/67, L.M.L.L. 810/448, R.J.S. 1312/185 & R.J.S. 1312/188)



BM ZONE
EX SHOPPING CENTER

N/F
Dundalk Stores Corporation
OTS 4602/435

- LEGEND
- Fire Hydrant
 - Sanitary Manhole
 - Storm Drain Inlet
 - Water Meter
 - Electric Manhole
 - Transformer
 - Utility Box
 - Ground Post
 - Filter Cap



FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS)

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

658 KENILWORTH DRIVE, SUITE 100
TOWSON, MARYLAND 21204
(410) 825-8120

OWNER

MERRITT BOULEVARD PROPERTY PARTNERSHIP
C/O MR. DONALD H. READY, GEN. PART.
300 PENNSYLVANIA AVENUE
TOWSON, MD. 21204

J.S. KUHN

REFERENCE:

Plat entitled "Resubdivision Plat of Laurelwood" dated January 18, 1968, recorded among the Plat Records of Baltimore County, Maryland in Plat Book O.T.G. 31 folio 56.

FOR TITLE SEE:

Deed dated July 24, 1972 between Angelo D'Anna and Carmen D'Anna, partners trading as Ancar, and Merritt Boulevard Property Partnership recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 5286 folio 065. Also see Subordination, Non-Disturbance and Attornment Agreement dated August 17, 1984 between Petstuff, Inc., Merritt Boulevard Property Partnership and Midland Data Systems, Inc., recorded among the Land Records of Baltimore County, Maryland in Liber 10800 folio 134.

MED. CENTER

ZONING REQUEST

- 1) A SPECIAL HEARING TO VERIFY THAT LIMITED PET SALES ARE A PERMITTED ACCESSORY USE IN A (PET SUPPLY STORE) NOT (PET SHOP) PER SEC 230.11 & SEC 233.2B
- 2) A VARIANCE FROM SEC. 421.2 TO PERMIT A PET SHOP TO BE WITHIN 120 FEET OF THE NEAREST RESIDENTIAL ZONE IN LIEU OF THE REQUIRED 200 FEET

PETITIONER'S EXHIBIT

N/F
Merritt Boulevard Limited Partnership
O.T.G. 5221/072

BM ZONE
EX SHOPPING CENTER

TO WESTFIELD RD

PR-16

APARTMENT COMPLEX

BALTO. CO. ZONING REGULATIONS

Section 233.1--USE REGULATIONS

The following uses only are permitted (see Section 233.3):

233.1--Uses permitted in B.L. Zone.

B.L. Zone--Business, Local (B.C.Z.R., 1955.)

Section 230.1--USE REGULATIONS

230.93--Pet Shop.

230.10--Combinations of the above uses. (Bill No. 111, 1968.)

230.11--Accessory uses or structures, including business signs (see Sections 413.2, 413.4, and 413.5), garages, and parking spaces for the use of owners, employees, tenants, and invitees. A maximum of six (6) coin-operated children's rides are permitted as an accessory use (B.C.Z.R., 1955; Amendments 230-10 and 230-11; Bills No. 111, 1968; No. 29, 1982.)

Section 421--ANIMAL BOARDING PLACE, KENNEL, PET SHOP, VETERINARIAN'S OFFICE, VETERINARIUM (Bill No. 85, 1967.)

421.1--Where an animal boarding place or kennel is allowed in a residential zone, either as a Special Exception or as a permitted use, no part of any such use shall be located within 200 feet of the nearest property line. (Bill No. 85, 1967.)

421.2--Where an animal boarding place, kennel, or pet shop is allowed in a business or industrial zone, either as a Special Exception or as a permitted use, no part of such use shall be located within 200 feet of the nearest residential zone. (Bill No. 85, 1967.)

Pet Shop: A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, and related supplies and equipment. (Bill No. 85, 1967.)

Section 101--DEFINITIONS (B.C.Z.R., 1955.)

Accessory Use or Structure: A use or structure which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. (Bill No. 100, 1970; Bill No. 26, 1988.)

DANVILLE SQUARE S. CTR.

PLAT TO ACCOMPANY A
ZONING PETITION
FOR A VARIANCE AND
A SPECIAL HEARING

BALTO. CO. MP.
DATE: 5/1/95

ELECT. DIST. #12
COUNCIL DIST. #7

95-421-SPHA

DESCRIPTION:

Beginning for the same at a pin and cap found on the east side of Merritt Boulevard, 120 feet wide, said point of beginning being designated "C" on a Plat entitled "Resubdivision Plat of Laurelwood" dated January 18, 1968, recorded among the Plat Records of Baltimore County, Maryland in Plat Book O.T.G. 31 folio 56, running thence leaving said point of beginning, binding on said east side of Merritt Boulevard and binding on the western boundary of Lot Two, shown on said Plat, 1) North 14 degrees 53 minutes 22 seconds East 437.00 feet to a pipe found, running thence leaving said Merritt Boulevard, binding on the division line between Lot One and Lot Two, reversing the bearing on said Plat, 2) North 75 degrees 06 minutes 22 seconds East 437.00 feet to a pipe found, running thence binding on the eastern boundary of Lot Two, shown on said Plat, 3) South 14 degrees 53 minutes 22 seconds East 750.36 feet to a pin and cap found at the point designated "B" on said Plat, running thence binding on the southern boundary of Lot Two, shown on said Plat, 4) South 75 degrees 06 minutes 22 seconds West 437.00 feet to the point of beginning.

MAIN BUILDING EX. W/ SHOPPING CR.
55,034 S.F. RETAIL 2,175 S.F. OFFICE 2,175 S.F. REC.
5,000 S.F. SERVICE 1,175 S.F. 10' R/W PER SEC.
5,755 S.F. SERVICE 1,175 S.F. 10' R/W PER SEC.
5,100 S.F. SERVICE 1,175 S.F. 10' R/W PER SEC.
TOTAL 73,205 S.F.

SATellite BUILDING
2,575 S.F. 10' R/W PER SEC.
5,575 S.F. 10' R/W PER SEC.
4,075 S.F. 10' R/W PER SEC.
TOTAL 12,225 S.F.

GRAND TOTAL
85,430 S.F. (430 R/W PER SEC.)
PAR. 0.06 (PAR. PERMITTED 4.0 OR 13.4, 17.6 PER SEC.)

1. PAVING PREPARED 441
2. INCLUDING 6 INCH 6 INCH MANHOLE RINGS

Baltimore Gas and Electric Company R/W
(See: T.B.S. 1562/228, L.M.C.M. 905/414 & L.M.C.M. 908/482)
(Also See: L.M.C.M. 853/67, L.M.C.L. 910/449, R.J.S. 1312/185 & R.J.S. 1312/186)

Prior zoning case
GRANTED SETBACK FOR SERVICE GARAGE
(NOW PERMITTED BY RIGHT)

14°53'38" W 145.58'
50' R/W (See Deed O.T.G. 4602/429)
51°58'38" E 142.25'

BM. ZONE
EX SHOPPING CENTER

N/F
Dundalk Stores Corporation
O.T.G. 4602/425

- LEGEND
- Fire Hydrant
 - Sanitary F.H.
 - Sanitary M.H.
 - Storm Drain Inlet
 - Storm Drain Manhole
 - Water Meter
 - Electric Manhole
 - Transformers
 - Street Light
 - Utility Box
 - Guard Post
 - Filler Cap

7.528 Ac +/-

ALL USES EXISTING

Merritt Boulevard Limited Partnership
O.T.G. 5221/072
BM ZONE
EX SHOPPING CENTER

PETITIONER'S EXHIBIT 8

BALTO. CO. ZONING REGULATIONS
Section 233.1--USE REGULATIONS

The following uses only are permitted (see Section 233.3):

233.1--Uses permitted in B.L. Zone.

B.L. Zone--Business, Local [B.C.Z.R., 1955.]

Section 230.1.2--USE REGULATIONS

230.93--Pet Shop.

230.10--Combinations of the above uses. [Bill No. 111, 1968.]

230.22 & 230.11--Accessory uses or structures, including business signs (see Sections 413.2, 413.4, and 413.5).

garages, parking spaces for the use of owners, employees, tenants, and invitees. A maximum of six (6) coin-operated children's rides are permitted as an accessory use.

[B.C.Z.R., 1955; Subsections 230.10 and 230.11; Bills No. 111, 1968; No. 29, 1982.]

Section 421--ANIMAL BOARDING PLACE, KENNEL, PET SHOP, VETERINARIAN'S OFFICE, VETERINARIUM [Bill No. 85, 1967.]

421.1--Where an animal boarding place or kennel is allowed in a residential zone, either as a Special Exception or as a permitted use, no part of any such use shall be located within 200 feet of the nearest property line. [Bill No. 85, 1967.]

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Pet Shop: A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, and related supplies and equipment. [Bill No. 85, 1967.]

Section 101--DEFINITIONS [B.C.Z.R., 1955.]

Accessory Use or Structure: A use or structure which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent, or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. [Bill No. 100, 1970; Bill No. 26, 1988.]

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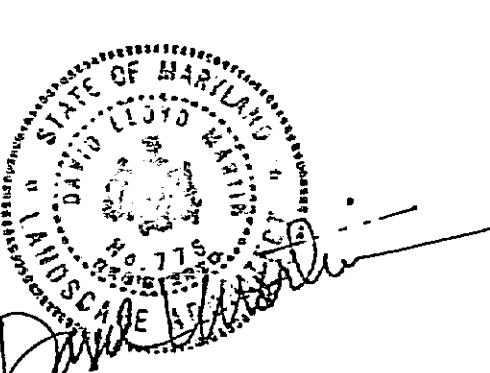
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FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

658 KENILWORTH DRIVE, SUITE 100

TOWSON, MARYLAND 21204

(410) 825-8120

OWNER
MERRITT BOULEVARD PROPERTY PARTNERSHIP
C/O MR. DONALD H. RAY, CLM FR.
205 PENNSYLVANIA AVENUE
TOWSON, MD 21204

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PER SEC. 230.11 & SEC. 233.25
2) A VARIANCE FROM SEC. 421.2 TO PERMIT A PET SHOP TO BE WITHIN 120 FEET OF THE NEAREST RESIDENTIAL ZONE IN LIEU OF THE REQUIRED 200 FEET

REV. 6/10/85
1. SHOWN ADDRESSES
2. DIMENSIONED DOCK
3. ADDED FLOOD NOTE
4. ADDED TABLE FOR PARKING FLOOR AREA & PAR. 5. ADDED NOTE ABOUT PERIOD 6. 5. 6. FOR SERVICE GARAGE

DANVILLE SQUARE S. CTR.

1501 E. 15TH ST. MERRITT BLVD

PLAT TO ACCOMPANY A

ZONING PETITION

FOR A VARIANCE AND

A SPECIAL HEARING

BALTO. CO. MP.

DATE: 9/1/85

ELECT. DIST. #12

COUNCIL DIST. #7